



November 10, 2011

Jocelyn Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Dr., Suite 100
Columbia, SC 29210

RE: SCPSC Docket No. 2011-158-E

Dear Mrs. Boyd:

Pursuant to the Commission's Order No. 2011-816 issued on November 2, 2011, Progress Energy Carolinas, Inc. and Duke Energy Carolinas, LLC submit for filing in the above-referenced docket the Supplemental Direct Testimony of Alexander J. Weintraub.

Sincerely,

A handwritten signature in black ink that reads 'Len S. Anthony/mhm'.

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

LSA:mhm

STAREG1929

**STATE OF SOUTH CAROLINA
PUBLIC SERVICE COMMISSION**

COLUMBIA

DOCKET NO. 2011-158-E

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of)
)
Application of Duke Energy Carolinas,)
LLC and Progress Energy Carolinas, Inc.)
to Engage in a Business Combination)
Transaction)

**SUPPLEMENTAL
DIRECT TESTIMONY OF
ALEXANDER J. WEINTRAUB**

1 **Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.**

2 **A. My name is Alexander (Sasha) J. Weintraub and my business address is 100 East Davie**
3 **Street, Raleigh, North Carolina. My position is Vice President-Fuels and Power**
4 **Optimization for Progress Energy Carolinas, Inc. (“PEC” or “Company”).**

5 **Q. ARE YOU THE SAME SASHA WEINTRAUB THAT PREVIOUSLY**
6 **SUBMITTED TESTIMONY IN THIS PROCEEDING?**

7 **A. Yes. I submitted direct testimony and exhibits in this proceeding on September 14, 2011.**

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 **A. The purpose of my testimony is to discuss the market power issues raised by the Federal**
10 **Energy Regulatory Commission (“FERC”) in its September 30, 2011 order conditionally**
11 **approving the merger of Progress Energy, Inc. and Duke Energy Corporation. I will also**
12 **explain the market power mitigation proposal filed by Progress and Duke on October 17,**
13 **2011 with the FERC and why it remedies the FERC’s market power concerns. Finally, I**
14 **will explain why the mitigation proposal does not impact the joint dispatch of Progress**
15 **Energy Carolinas, Inc.’s (“PEC”) and Duke Energy Carolinas, LLC’s (“DEC”)**
16 **generation facilities.**

1 **Q. PLEASE EXPLAIN THE MARKET POWER CONCERNS RAISED BY THE**
2 **FERC'S MERGER ORDER?**

3 **A. FERC found "screen failures" with respect to the market for short-term energy, which is**
4 **referred to as "Available Economic Capacity" during the summer and winter periods in**
5 **the DEC balancing authority area ("BAA") and the summer period in the PEC East BAA.**
6 **Available Economic Capacity represents the amount of capacity that a utility has**
7 **remaining after serving all of its retail and wholesale native load obligations and that has**
8 **operating costs that are lower than the market prices that prevail during the relevant**
9 **period. A "screen failure" means that the increase in the level of concentration of**
10 **ownership of Available Economic Capacity resulting from the merger exceeds certain**
11 **thresholds established by FERC.**

12 **Q. DOES THE FACT THAT FERC FOUND SCREEN FAILURES MEAN THAT**
13 **PEC AND DEC NECESSARILY COULD EXERCISE MARKET POWER?**

14 **A. No. FERC has provided for a very conservative test that is intended to identify potential**
15 **market power problems that require further analysis in order to determine whether in fact**
16 **market power could be exercised. Rather than conduct that analysis, however, FERC**
17 **required PEC and DEC to take steps to mitigate up front any potential for the exercise of**
18 **market power in the periods where there were screen failures identified by FERC.**

19 **Q. PLEASE DESCRIBE PEC'S AND DEC'S PROPOSED MARKET POWER**
20 **MITIGATION PROPOSAL.**

21 **A. FERC's concern is that PEC and DEC could possibly exercise market power in the short**
22 **term wholesale electricity market by withholding their excess generation from this**
23 **market, and thereby increase market prices. To address this concern, the proposal**

1 submitted to the FERC requires PEC and DEC to offer to sell for resale in their BAAs a
2 certain amount of excess generation during these time periods. BAAs are also known as
3 control areas. For PEC, it must offer to sell all excess generation up to 500 MWs during
4 the summer months. For DEC, it must offer to sell excess generation up to 300 MWs
5 during the summer months and 225 MWs during the winter months. The price at which
6 this excess generation would be sold is the average incremental cost of the generation
7 plus 10%. The companies will offer this energy on a daily basis. The proposed term of
8 the mitigation proposal is 8 years. By committing to make this excess generation
9 available, PEC and DEC would not be able to withhold that generation from the market
10 and therefore have eliminated any potential to exercise market power in this fashion.

11 **Q. YOU CHARACTERIZED THE GENERATION PEC AND DEC MUST OFFER**
12 **INTO THE SHORT TERM WHOLESALE MARKET UNDER THE**
13 **MITIGATION PROPOSAL AS EXCESS GENERATION. WHAT DOES THAT**
14 **MEAN?**

15 **A.** As I explained above, the Available Economic Capacity measure used in FERC's
16 analysis measures generation capacity that is available after serving retail and wholesale
17 native load customers. Consequently, under the mitigation proposal submitted to FERC
18 the excess generation is that generation available after PEC and DEC have served all of
19 their South Carolina and North Carolina retail customers and native load firm wholesale
20 customers with PEC's and DEC's lowest cost generation.

21 **Q. ARE THERE ANY LIMITATIONS ON WHAT EXCESS GENERATION WILL**
22 **BE MADE AVAILABLE FOR THE MITIGATION SALES?**

1 A. Yes, just one. There is a reliability related limitation. Both PEC and DEC may cancel
2 any short term sale made under the mitigation proposal if PEC or DEC needs that
3 generation to reliably meet its retail or native load firm wholesale customers' needs. In
4 other words, if PEC lost a generating unit, it could cancel a mitigation sale in order to use
5 that generation to replace the lost unit. But if PEC and DEC have available generation
6 and it is not needed to reliably serve native load, it will be offered for the mitigation sales
7 up to the limits I described earlier.

8 **Q. WHAT IMPACT, IF ANY, WILL THE MITIGATION SALES HAVE ON THE**
9 **COMPANIES' ABILITY TO MAKE OFF-SYSTEM SALES?**

10 A. PEC and DEC retain the right to sell any excess generation not purchased under the
11 mitigation proposal either inside of their BAAs pursuant to their cost-based rate tariffs or
12 outside their BAAs pursuant to their market-based rate tariffs.

13 **Q. DOES THE MARKET POWER MITIGATION PROPOSAL IMPACT THE**
14 **JOINT DISPATCH OF PEC'S AND DEC'S GENERATION FACILITIES?**

15 A. No. The joint dispatch of DEC's and PEC's units needed to serve native load will not be
16 affected by potential mitigation sales. As I explained earlier, under the mitigation
17 proposal PEC and DEC first will serve all of their retail customers and native load firm
18 wholesale customers with their lowest cost generation before making any energy
19 available for sale in the wholesale market pursuant to the mitigation proposal. Therefore,
20 the proposal does not change in any way the joint dispatch of units to serve retail and
21 wholesale native load customers. Further, PEC and DEC will be able to withdraw any
22 energy offered for sale under their FERC mitigation proposal if that energy is needed to

1 serve retail or native load wholesale customers. Thus, the joint dispatch of PEC's and
2 DEC's generation facilities will not be impacted in anyway by the mitigation proposal.

3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 **A. Yes.**

BEFORE

THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-158-E

In the Matter of)
Application of Duke Energy Carolinas, LLC)
and Progress Energy Carolinas, Inc. to)
Engage in a Business Combination)
Transaction)

CERTIFICATE OF SERVICE

I, Len S. Anthony, hereby certify that a copy Supplemental Direct Testimony of Alexander J. Weintraub on behalf of Duke Energy Carolinas, LLC and Progress Energy Carolinas, Inc. have been served on all parties of record either by hand delivery, e-mail, or by depositing said copy in the United States mail, postage prepaid, addressed as follows:

Pablo O. Nuesch
Spiegel & McDiarmid, LLP
1333 New Hampshire Avenue, N.W.
Washington, DC 20036

Peter J. Hopkins
Spiegel & McDiarmid
1333 New Hampshire Avenue, N.W.
Washington, DC 20036

Michael K. Lavanga
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, DC 20007

Garrett A. Stone
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, DC 20007

James N. Horwood
Department of Public Utilities
City of Orangeburg
Spiegel & McDiarmid, LLP
1333 New Hampshire Avenue, N.W.
Washington, DC 20036

Dr. Peters Wilborn, Jr.
Derfner, Altman & Wilborn
P. O. Box 600
Charleston, SC 29402

Douglas Jennings, Jr.
Douglas Jennings Law Firm, LLC
P. O. Box 995
Bennettsville, SC 29512

Kodwo Ghartey-Tagoe
Vice President Legal, State Regulation
Duke Energy Carolinas, LLC
P. O. Box 1006 / EC03T
Charlotte, NC 28201

Scott Elliott
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201

Courtney D. Edwards
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Frank R. Ellerbe, III
Robinson, McFadden & Moore, P.C.
P. O. Box 944
Columbia, SC 29202

K. Chad Burgess
South Carolina Electric & Gas Company
MC C222
220 Operation Way
Cayce, SC 29033

J. Blanding Holman, IV
Southern Environmental Law Center
43 Broad Street, Suite 300
Charleston, SC 29401

Michael N. Couick
The Electric Cooperatives of SC, Inc.
808 Knox Abbott Drive
Cayce, SC 29033

Paul J. Conway
Tiencken Law Firm, LLC
234 Seven Farms Drive, Suite 114
Charleston, SC 29492

Jill Mara Tauber, Counsel
Southern Environmental Law Center
122 C Street, NW, Suite 390
Washington, DC, 20001

Robert R. Smith, II
Moore & Van Allen, PLLC
100 North Tryon St., Suite 4700
Charlotte, NC 28202

Nanette S. Edwards
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Jonathan D. Newman
Sherman, Dunn, Cohen, Leifer & Yellig, P.C.
900 Seventh Street, N.W., Suite 1000
Washington, DC 20001

Matthew W. Giissendanner
South Carolina Electric & Gas Company
MC C222
220 Operation Way
Cayce, SC 29033

Christopher R. Koon
The Electric Cooperatives of SC, Inc.
808 Knox Abbott Drive
Cayce, SC 29033

John H. Tiencken
Tiencken Law Firm, LLC
234 Seven Farms Drive, Suite 114
Charleston, SC 29492

Gudrun Elise Thompson
Southern Environmental Law Center
601 W. Rosemary Street
Suite 220
Chapel Hill, NC, 27516

This 10th day of November, 2011.



Len S. Anthony
General Counsel